

**STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102**

ENERGY

IN THE MATTER OF THE MOTION OF THE)	
DIVISION OF RATEPAYER ADVOCATE TO)	ORDER ON MOTION
CONTINUE THE RESIDENTIAL SERVICE)	
TIME OF USE RATES OF ATLANTIC CITY)	
ELECTRIC COMPANY DOING BUSINESS)	
AS CONECTIV POWER DELIVERY)	DOCKET NOS. ER00070469

(SERVICE LIST ATTACHED)

BY THE BOARD:

This order memorializes action taken by the Board of Public Utilities ("Board") at its July 20, 2000 public agenda meeting, by a vote of three commissioners.

By letter dated July 13, 2000, the Division of the Ratepayer Advocate ("Advocate") filed a motion requesting the Board to issue an Order directing Atlantic City Electric Company ("ACE" or "the Company") to continue offering its two residential time of use ("TOU") rate schedules pending a Board investigation. The subject rate schedules, Residential Service - Time of Use - Energy ("RS-TOU-E") and Residential Service - Time of Use - Demand ("RS-TOU-D"), were scheduled to be discontinued from the ACE tariff on August 1, 2000, pursuant to the Board's July 15, 1999 Summary Order ("Summary Order") and the underlying stipulation in the Company's rate unbundling proceeding. The RS-TOU rate schedules were originally implemented on an experimental basis in January 1989 and have never received Board approval for permanent inclusion in the Company's tariff.

The Advocate advanced several arguments for continuation of the RS-TOU rate schedules. Principally, the Advocate argues that discontinuation of the subject rate schedules could result in rate increases, a consequence that would undermine the intent of the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. The Advocate further argues that other New Jersey electric utilities have been permitted to continue offering residential time of use service; that the Company did not adequately justify its proposed elimination of these rates during the unbundling proceeding; that time of use pricing serves a wider system benefit of mitigating the potential for system-wide supply shortages; and that certain customers have

complained to the Advocate that Company promises of future time of use service availability led them to invest in costly heating, ventilation and air conditioning ("HVAC") systems designed for time-specific electricity consumption.

ACE responded to the Advocate's motion by letter dated July 19, 2000. The Company recommends that the Board reject the Advocate's motion for several reasons. ACE argues that its discontinuation of the RS-TOU is entirely consistent with the Summary Order and that it has properly noticed the 6,000 affected customers pursuant to the 90-day advance notice requirement provided for in the Summary Order. The Company questions the Advocate's late filing for Board reconsideration of a provision that has been known to all parties since the issuance of the Summary Order on July 15, 1999. In the Company's view, the Advocate should have filed its motion well in advance of July 13, 2000 if it were seeking serious reconsideration of the subject provision of the Order. In fact, ACE points out the irony of the Advocate's current support for continuation of the RS-TOU program given its historical opposition to it. ACE notes that the Advocate has consistently questioned the cost basis of the RS-TOU rates since their 1989 implementation. ACE further notes that the Company's 1993 petition to establish the RS-TOU rates as permanent rate schedules within the tariff was opposed by the Advocate, which recommended that the large on-peak/off-peak rate differential did not reflect actual cost differentials and served to promote inefficient use of energy. Further, the Company points out that the elimination of the TOU program will result in the "plain vanilla" basic generation service that the Advocate argued for in the electric rate unbundling proceeding. ACE asserts that third party suppliers can alternately provide time-differentiated rates as part of the varied menu of services anticipated with the introduction of supply competition. Finally, ACE points out the three-year phase out of the GPU residential time of use rate as evidence that it is not alone among NJ utilities in terminating such service offerings.

Discussion and Findings

In considering the Advocate's motion, the Board notes that the effective date for the elimination of the RS-TOU rate schedules was the subject of the Board's Summary Order and was thus known to all parties for the past year. The elimination of RS-TOU service would put an end to the subsidization of residential off-peak energy consumption, long identified by the Advocate and Board Staff ("Staff") as the fundamental flaw in the RS-TOU rate design. The rate schedules have been in effect on an experimental basis since their inception, with no indication from the Board that they would become permanent components of the tariff. Thus, the Advocate's assertion of customer entitlement to their continuation is without foundation. The Advocate's argument that the rates assist in mitigating supply shortages by encouraging load management runs contrary to the prior arguments of the Advocate pointing to the system inefficiencies implicit in the below-cost design of the off-peak rates. Finally, the Board recognizes that the Company has already notified its 6000 RS-TOU customers that the rate would be terminated on August 1, 2000.

Notwithstanding these sound reasons supporting termination of the RS-TOU rate schedules as provided for in the Summary Order, the Board is compelled to consider as well the potential adverse billing consequences for the 6,000 participating RS-TOU customers, especially in light of the energy price reductions anticipated under EDECA. In consideration of these factors, the Board FINDS that a phase out of the RS-TOU service is more appropriate since it would accomplish the dual purpose of eliminating the rate schedules while mitigating the rate impact upon existing customers. The Board HEREBY ORDERS the parties to this matter – the

Company and the Advocate – to confer with Staff on a method and timetable for implementation of such phase out and to submit the results to the Board for final approval.

DATED: April 8, 2002

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST: (SIGNED)
KRISTI IZZO
SECRETARY

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